

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Charles J. Madden, #182326,)	
)	C/A No. 6:07-1109-MBS
Petitioner,)	
)	
vs.)	O R D E R
)	
Warden, Lee Correctional Institution,)	
)	
Defendant.)	
_____)	

Petitioner Charles J. Madden is an inmate in custody of the South Carolina Department of Corrections. On April 24, 2007, Petitioner, proceeding pro se, filed the within petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254.

This matter is before the court on motion for summary judgment filed by Respondent on August 3, 2007. On August 6, 2007, an order was issued pursuant to Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975), advising Petitioner of the summary judgment procedures and the possible consequences if he failed to respond adequately. Petitioner filed response in opposition to the motion for summary judgment on September 4, 2007.

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge William M. Catoe for pretrial handling. On January 4, 2008, the Magistrate Judge issued a Report of Magistrate Judge in which he determined that the within § 2254 was barred under the one-year statutory deadline set forth in 28 U.S.C. § 2244(d)(1)(A). Accordingly, the Magistrate Judge recommended that Respondent's motion for summary judgment be granted on this basis. Plaintiff filed no objections to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court.

Mathews v. Weber, 423 U.S. 261, 270 (1976). The court is charged with making a de novo determination of any portions of the Report of Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of objections to the Report, this court is not required to give any explanation for adopting the recommendation. Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983).

The court has carefully reviewed the record and concurs in the recommendation of the Magistrate Judge. The court adopts the Report of Magistrate Judge and incorporates it herein by reference. Respondent's motion for summary judgment (Entry 18) is **granted**.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
United States District Judge

Columbia, South Carolina

February 7, 2008

NOTICE OF RIGHT TO APPEAL

Petitioner is hereby notified that he has the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.